

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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:  
REMY DAUPHIN, HAROLD CONKLIN, JR., GINA :  
CONKLIN, VERA HESS, JOHN PAGE, DERIK :  
WAUGH, JEAN RENAL BAPTISTE, LUC BELIZAIRES, :  
ANTHONY CONTENTO, REGINALD COPELAND, :  
FRANTZ FILS-AIME, ROBERT HOLZMAN, :  
SHELDON LATZEN, JOHN MOLLAHAN, :  
RUTH MORGAN, DONNA STEVENS, and GERALD :  
ZUILKOWSKI on behalf of himself and all others :  
similarly situated, :  
:

Plaintiffs,

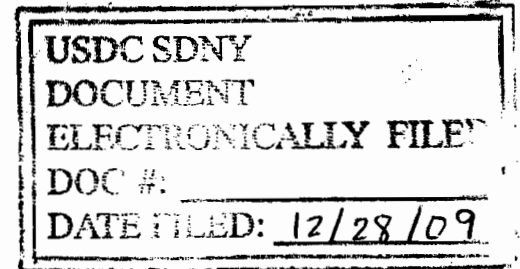
-against-

CHESTNUT RIDGE TRANSPORTATION INC., :  
CHESTNUT RIDGE TRANSIT, INC., and JOHN CORR, :  
:

Defendants.  
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06 Civ. 2730 (SHS)

ORDER



SIDNEY H. STEIN, U.S. District Judge.

Defendants have moved to dismiss the claims of plaintiffs Harold Conklin, Vera Hess, Derik Waugh, Jean Renal Baptiste, Franz Fils-Aime, Sheldon Latzen, John Mollahan, and John Page with prejudice, pursuant to Fed. R. Civ. Proc. 37 for failure to appear for depositions and failure to obey Magistrate Judge Dolinger's court order, dated October 21, 2009, which directed them to appear for those depositions. The plaintiffs named above had been notified that failure to appear would result in dismissal, but despite this notice, they still failed to appear for the depositions. Plaintiffs' attorney has not opposed defendants' motion to dismiss, except he takes no position as to plaintiffs Waugh and Baptiste and has asked to be relieved as counsel for those plaintiffs.

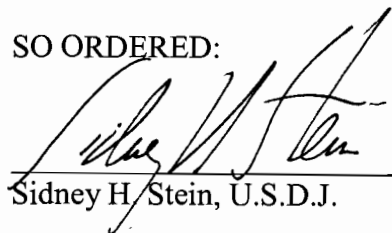
On December 10, 2009, Magistrate Judge Dolinger issued a Report and Recommendation recommending that defendants' motion to dismiss the complaint should be granted as to each of the above named plaintiffs pursuant to Fed. R. Civ. Proc. 37 and Valentine v. Museum of Modern Art, 29 F.3d 47, 49 (2d Cir. 1994). To date, the Court records indicate that no response to the Report and Recommendation has been filed with the Court.

Accordingly, IT IS HEREBY ORDERED that:

1. Magistrate Judge Dolinger's Report and Recommendation is adopted and the claims of the eight plaintiffs named above are dismissed with prejudice; and
2. The request to withdraw as counsel for plaintiffs Waugh and Baptiste by plaintiffs' attorney is dismissed as moot.

Dated: New York, New York  
December 28, 2009

SO ORDERED:

  
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Sidney H. Stein, U.S.D.J.